# In the Supreme Court of the United States

OCTOBER TERM, 1965

## No. 1199

EARL S. JENNINGS, PETITIONER

*v.*

UNITED STATES OF AMERICA

*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT*

**MEMORANDUM FOR THE UNITED STATES IN OPPOSITION**

After a trial by the court in the United States District Court for the District of Columbia, petitioner was convicted on two counts of narcotics violations and was given concurrent sentences of imprisonment for two to seven years. The court of appeals affirmed, *per curiam,* on March 9, 1966 (Pet. App. C).

The sole question raised is the sufficiency of the affidavit to support the issuance of a warrant for the search of petitioner's apartment. The affidavit of detective Paul of the Metropolitan Police Force set forth that two previously reliable sources gave him the information that they had purchased heroin from Esther McNair and Joseph Nelson in the vicinity of



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8th and L Streets northwest, Washington, D.C., the last purchase being on January 16, 1964, the day before the affidavit was made. The informants said that the parties made frequent trips in a blue 1960 Mercury automobile, D.C. license PL–993, to northeast Washington, after which they would return with fresh supplies of heroin. Paul had previously arrested Miss McNair, who was currently free on bond, for violation of the Harrison Narcotics Act. Both she and Nelson had previous narcotics convictions. Both had used as their address 301 56th Street, northeast, apartment 31. On January 17, 1964, affiant had observed Miss McNair and Nelson enter a blue Mercury, license number PL–993, near the corner of 8th and L Streets northwest, drive to northeast Washington, enter 301 56th Street where they remained for a short time and drive away. Paul, by radio, had alerted another officer, who followed the pair back to the vicinity of 8th and L Streets northwest, where they were arrested as they left their vehicle. They were in possession of twenty-six decks of suspected heroin, which showed a positive reaction to a field test. Nelson said that they had obtained this in northeast Washington, but would not state the address (Pet. App. 7–9). On the basis of this affidavit, the Commissioner issued a warrant for a search of the premises at 301 56th Street northeast.

The district court correctly stated in its memorandum opinion (*United States* v. *Jennings*, 235 F. Supp. 551) that the affidavit was sufficient, since it furnished substantial basis for the Commissioner to

conclude that narcotics were in the premises authorized to be searched. *Jones* v. *United States,* 362 U.S. 257, 271; *Rugendorf* v. *United States,* 376 U.S. 528, 533; *Aguilar* v. *Texas,* 378 U.S. 108, 111; *Irby* v. *United States,* 314 F.2d 251 (C.A.D.C.), certiorari denied, 374 U.S. 842; *Ward* v. *United States,* 281 F.2d 917 (C.A.D.C.), certiorari denied, 365 U.S. 837.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

THURGOOD MARSHALL,
*Solicitor General.*

FRED M. VINSON, JR.,
*Assistant Attorney General.*

BEATRICE ROSENBERG,
KIRBY W. PATTERSON,
*Attorneys.*

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